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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,925	08/31/2001	Robert J. Donald	44653A	2226

109 7590 08/29/2003

THE DOW CHEMICAL COMPANY  
INTELLECTUAL PROPERTY SECTION  
P. O. BOX 1967  
MIDLAND, MI 48641-1967

EXAMINER
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MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/943,925

Applicant(s)

DONALD ET AL.

Examiner

Jeffrey C. Mullis

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): see attachment.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-7 and 9-14.

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-7 and 9-14.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☒ Other: 1449

Jeffrey C. Mullis  
J Mullis  
Art Unit: 1711

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ATTACHMENT TO ADVISORY ACTION

Applicants' arguments filed 7-25-03 have been fully considered but they are not deemed to be persuasive.

Applicants are correct that their effective filing date is now 6-11-99. Applicants' after final amendment has been entered.

All rejections relying upon Fujiwara et al., JP 11-286526, have been withdrawn.

With regard to Hoeg et al., note that column 6 lines 36-40 of the patent clearly state that the number in front of the designation indicates the percentage by weight of styrene in the block copolymer. Run 71 has a "40" in front of the designation and is therefore 40% by weight styrene. Since the remainder of the polymer must be butadiene, the ratio butadiene/styrene must be 40:60. It is not clear how applicants have derived their number of 41.7 weight percent butadiene but in any case the total amount of butadiene and styrene must be 100% which is not the case if it were assumed that the polymer of Run 71 was 41.7% plus 24 weight percent styrene.

With regard to Kato, JP 2586575, the optical media disk of Kato is coated. Note the paragraph bridging pages 3 and 4 where it is disclosed that a film is formed on a substrate to form the disk.

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Applicants' remarks regarding the rejections under 35 U.S.C. § 102(e) based on any of the four Hahnfeld patents are moot since these rejections have been withdrawn.

With regard to the obviousness-type double patenting rejections, these have been maintained. It is noted that applicants argue that the filing dates of these patents are later than that of the instant application. While this may be so, there is no basis in Office policy for not making a double patenting rejection over a patent with a later filing date. With regard to '924, the instant claims are not limited as to any particular 1,2 or 1,4 content; with regard to the '621 patent, the instant claims are not limited as to isoprene block copolymers nor have applicants proven any unexpected results over the '621 patent with regard to the use of isoprene; with regard to the '390 patent, there is nothing in the claims of this patent regarding lamellar morphology; with regard to the '820 patent, claims 1-5 have no limitation regarding the requirement of a polymer block having 120 monomer units or less. It is noted that the double patenting rejection over the '820 patent or any other patent need not be made over more than one of the claims of the patent.

The instant application has been converted to IFW format and is consequently highly disorganized. The examiner therefore requests that all intitialed Information Disclosure Statemnts be

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resubmitted. With regard to applicants' reference, this has now been considered.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (703) 308-2820. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

J. Mullis:cdc

August 21, 2003

Jeffrey Mullis  
Primary Examiner  
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